

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION
DOCKETS

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Application of

AEROVIAS DE MEXICO, S.A. DE C.V.

for Renewal of an Exemption from
49 U.S.C. § 41301. (San Jose del Cabo-Ontario)

Docket OST-03-14290 - C

APPLICATION OF
AEROVIAS DE MEXICO, S.A. DE C.V.
FOR RENEWAL OF EXEMPTION AUTHORITY

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NOTICE: Any person may support or oppose this application by filing an answer and serving a copy of the answer on counsel for Aerovias de Mexico, S.A. de C.V., and upon persons served with this application no later than March 25, 2005.

DATED: March 10, 2005

BEFORE THE
DEPARTMENT OF TRANSPORTATION
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APPLICATION OF
AEROVIAS DE MEXICO, S.A. DE C.V.
FOR RENEWAL OF EXEMPTION AUTHORITY

Pursuant to 49 U.S.C. 40109(c), Aerovias de Mexico, S.A. de C.V. ("Aeromexico") respectfully requests renewal of the exemption authority granted by Notice of Action Taken dated March 26, 2004, permitting it to engage in foreign air transportation of persons, property and mail between San Jose del Cabo, Mexico, and Ontario, California. The exemption authority currently is set to expire March 26, 2005. By this application, Aeromexico intends to invoke the automatic extension provisions of 5 U.S.C. § 558(c) and Part 377 of the Department's Special Regulations. The renewal is requested for one year. In support of this application, Aeromexico states as follows:

1. Aeromexico is a flag carrier of the United Mexican States and currently holds a foreign air carrier permit, which authorizes service between Mexico and numerous U.S. points. Order 91-5-25. Pursuant to its permit and various exemption authorities, Aeromexico provides extensive service between Mexico and the United States.

2. By this application, Aeromexico seeks renewal of its exemption authority to provide service between San Jose del Cabo and Ontario. The authority was granted by Notice of Action Taken, dated March 26, 2004, and will expire on March 26, 2005. Aeromexico currently is operating three weekly round trips on the route with MD-80 Series aircraft. The public has responded well to the service and Aeromexico desires to continue that service for an additional year. In addition, Aeromexico carries the two-letter designator code of Delta Air Lines, Inc., which permits Delta to offer competitive alternatives to the traveling public.

3. Effective November 21, 1991, the governments of the United Mexican States and the United States amended the 1960 Air Transport Agreement by establishing new route annexes describing the routes available for carriers designated by each country. Under Annex I, a carrier designated by the Government of Mexico is entitled to operate "[f]rom a point or points in Mexico to a point or point in the United States." The Agreement provides further that "[e]ither Party may designate more than one airline on the same city pair when this has been mutually agreed by the Parties." By Note dated March 31, 2003, Aeromexico was designated to operate over the San Jose del Cabo-Ontario route. In addition, Aeromexico continues to hold authority from the DGAC to serve the market.

4. Under Section 49 U.S.C. 40109(c), the Department may grant or renew an exemption if it finds that such is consistent with the public interest. It is clear that the designation of a carrier by its homeland government is the most significant factor in determining whether grant of an application is in the public interest. For example, in

Linea Aerea Nacional de Chile, Foreign Permit, 26 C.A.B. 604 (1958), the Civil

Aeronautics Board stated as follows:

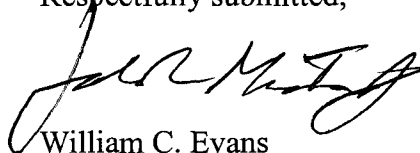
Where, as here, the applicant has shown that it holds the appropriate designation under an effective bilateral agreement to operate the route embraced by the application, the applicant has presented highly significant evidence bearing on the public Interest.

See also Application of Aerovias Venezolanas S.A., Order 86-8-88 at 3 (provision for authority in a bilateral is prima facie evidence that grant thereof is in the public interest); Aerolineas Peruanas Foreign Permit, 31 C.A.B. 181 (1960). The same findings are warranted here, where Aeromexico has been designated for the route sought to be served.

5. Given the fact that under the bilateral Aeromexico has been designated for the authority requested herein and the fact that the exemption will only be effective for one year, the request is limited in scope and should be noncontroversial. Moreover, grant of this application is warranted because of the significant service benefits being provided in the three transborder markets.

WHEREFORE, Aerovias de Mexico, S.A. de C.V. respectfully requests that the Department grant the exemption sought herein.

Respectfully submitted,



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DATED: March 10, 2005

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CERTIFICATE OF SERVICE

I hereby certify that I have this 10th day of March 2005, caused a copy of the foregoing Application of Aerovias de Mexico, S.A. de C.V. to be served by U.S. mail upon those persons on the attached list.


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